

Andrew J. Newman
Direct Dial: (617) 330-7031
E-mail: anewman@rubinrudman.com

June 1, 1998

BY HAND

Mary L. Cottrell, Secretary
Department of Telecommunications
and Energy
100 Cambridge Street
Boston, MA 02202

Re: Western Massachusetts Electric Company – DTE 97-120

Dear Ms. Cottrell:

The Western Massachusetts Industrial Customers Group ("Industrial Customers") have reviewed the amended restructuring plan filed by Western Massachusetts Electric Company ("WMECo" or "Company") and submit this letter as their comments.

Joint Sale of Northfield Mountain and Related Facilities

The Industrial Customers in their Initial Comments at 3 filed on January 28, 1998 stated "that the auction by WMECo of its minority interests in its non-nuclear plants including Northfield Mountain Pump Storage Facility without an auction by its affiliate Connecticut Light & Power of their interest will not result in full value for all ratepayers of WMECo." We are pleased that WMECo and its financial advisor, have seen the light and plan to auction the Northfield Facility as a single unit to obtain maximum mitigation for ratepayers. However, the time of the potential sale and the ability of WMECo to securitize any amounts related to the Northfield Mountain facility are questionable under the Massachusetts Electric Restructuring Act. St. 1997, c. 164. ("Restructuring Act")

In the May 15, 1998 amended plan filing at 2 WMECo agreed to auction its 19 percent share of Northfield Mountain facilities with the 81% share owned by Connecticut Light and Power Company "sometime in 1999." This does not comply with the Restructuring Act. The Restructuring Act requires that divestiture take place by August 1, 1999.

G.L. c. 164, § 1G(c) allows the recovery of eligible transition costs if four conditions are met. One condition requires that the distribution company "has developed and will implement a plan to divest itself of its portfolio of all non-nuclear generation assets by August 1, 1999, pursuant to subsection (b) of section 1A of this chapter." This section requires strict compliance.

Mary L. Cottrell, Secretary

June 1, 1998

Page 2

WMECo must commit to the sale of its interest in Northfield Mountain by August 1, 1999 and must do so jointly with CL&P in order to maximize the value of the generation facilities being sold.

There is good reason for the August 1, 1999 date. Customers should not continue to pay transition charges for non-nuclear generation plants indefinitely.

¹ The Legislature has mandated a date for divestiture or valuation. If WMECo has not completed the divestiture of all non-nuclear assets by August 1, 1999 the assets not disposed must be valued "based on the sale value of comparable plants through prior divestiture actions; provided in no instance shall such price be lower than the highest price per kilowattage of capacity for any capacity sold in New England, as determined by the Department..." G.L. c. 164, § 1A(b)(2). This value is then removed from transition cost recovery. Moreover, the Restructuring Act seems to prohibit the recovery of any transition costs by WMECo associated with existing fossil-fuel fired and existing hydroelectric generation facilities. G.L. c. 164, § 1A(d). This section applies uniquely to WMECo. Thus, any transition costs related to fossil or hydroelectric facilities must be removed from the transition charge immediately.

Even if WMECo agrees to auction the plant jointly with CL&P prior to August 1, 1999, the separate requirements of a valuation of all assets BEFORE securitization must be met. See Industrial Customers Comments of May 1, 1998.

The Industrial Customers support a joint sale of Northfield Mountain by WMECo and CL&P, but such sale must be concluded prior to August 1, 1999. This will maximize the value of said plant. However, even before the sale occurs all transition costs related to fossil and hydroelectric facilities should be removed in accordance with G.L. c. 164, § 1A(d).

DIVESTITURE PLAN

The proposed divestiture plan set forth in Tab 3 to the May 15, 1998 filing should be modified to include Northfield. This will increase the size of the auction and create more interest in the auction. As currently proposed the WMECo auction relates to generating plants with a total book value of less than \$15 million. See Exhibit 13, Amended Schedule 1, p. 5. The addition of Northfield

¹ On Thursday, May 28, 1998, COM/Electric Light Company and Cambridge Electric Light Company announced that they had entered into a purchase and sale agreement at six times book value for their non-nuclear generation assets. See *Boston Globe*, May 28, 1998 Business Section, page 2.

Mary L. Cottrell, Secretary
June 1, 1998
Page 3

including the CL&P interest would create additional interest in the auction and encourage broader participation.

While the plan of divestiture, as the Industrial Group recommends it be modified above, should maximize the value of the assets, until the sale is consummated the valuation process necessary as a pre-condition to securitization has not occurred.

WMECo is Not Entitled to Defer Costs to Meet the Statutory Requirement to Reduce Rates by 10%

The Industrial Customers in their Initial Comments, January 28, 1998, stated that rate reductions proposed by WMECo did not comply with the Restructuring Act for three reasons. First, WMECo did not use a representative fuel adjustment charge for 1997 which inflated the starting rates. Second, WMECo excluded the rate reduction of 2.4% that was in effect during 1997. Third, that WMECo deferred current recovery of revenue and did not provide a permanent 10% rate reduction.

Notwithstanding the Department's Interim Order of February 20, 1998 in this docket, the Industrial Customers claim that the rulings are erroneous as a matter of law and continue to oppose the Department's Interim Order. The Industrial Customers request that the Department reverse its Interim Order as required by law.

²

In the revised Plan WMECo has suggested to correct one of the errors in the Initial Order, at least prospectively, by providing an additional 2.4% rate reduction on and after July 1, 1998. The Industrial Customers support this request. However, the Industrial Customers oppose the deferral of the revenues forgone equal to a 2.4% to achieve the 10% rate reduction required by law.

Standard Offer and Default Service Procurement

Industrial Customers take no position on the procurement process for Standard Offer and Default Service. However, to the extent that WMECo seeks to defer revenues related to the required 10% rate reduction Industrial Customers oppose it as not in compliance with law.

² The Industrial Customers reserve their right to appeal from a final order on these issues.

Mary L. Cottrell, Secretary

June 1, 1998

Page 4

Securitization

No interim ruling in this case should prejudice the interest of Industrial Customers to oppose any attempt to burden customers with a financing order for illegal or non-existent transition costs. Thus, the Department should advise the Company to present a valuation of all its assets prior to securitization. See Industrial Customers Comment on Securitization, May 1, 1998. Any attempt by WMECo to by-pass the required valuation of its nuclear assets prior to securitization must be rejected. There is no basis to conclude that the market value of the nuclear assets is only 10% or less of their book value where the customers remain obligated to pay for all decommissioning costs through the transition charge. Accordingly, the Department should reject the request of WMECo to securitize up to 90% of the book value of nuclear assets. At the recent procedural conference the Company indicated that the Connecticut Restructuring Act prohibits securitization of any nuclear assets.

Sincerely,

Andrew J. Newman

AJN/lms

cc: Service List

Ronald LeComte, Esquire